

37.113

Acquisition of these services shall comply with the authority, criteria, and conditions of 5 CFR part 300, subpart E, Use of Private Sector Temporaries, and agency procedures.

[56 FR 55380, Oct. 25, 1991]

37.113 Severance payments to foreign nationals.

37.113-1 Waiver of cost allowability limitations.

(a) The head of the agency may waive the 31.205-6(g)(6) cost allowability limitations on severance payments to foreign nationals for contracts that—

(1) Provide significant support services for (i) members of the armed forces stationed or deployed outside the United States, or (ii) employees of an executive agency posted outside the United States; and

(2) Will be performed in whole or in part outside the United States.

(b) Waivers can be granted only before contract award.

(c) Waivers cannot be granted for—

(1) Military banking contracts, which are covered by 10 U.S.C. 2324(e)(2); or

(2) Severance payments made by a contractor to a foreign national employed by the contractor under a DOD service contract in the Republic of the Philippines, if the discontinuation of the foreign national is the result of the termination of basing rights of the United States military in the Republic of the Philippines (section 1351(b) of Public Law 102-484, 10 U.S.C. 1592, note).

[60 FR 42661, Aug. 16, 1995, as amended at 68 FR 43867, July 24, 2003]

37.113-2 Solicitation provision and contract clause.

(a) Use the provision at 52.237-8, Restriction on Severance Payments to Foreign Nationals, in all solicitations that meet the criteria in 37.113-1(a), except for those excluded by 37.113-1(c).

(b) When the head of an agency has granted a waiver pursuant to 37.113-1, use the clause at 52.237-9, Waiver of Limitation on Severance Payments to Foreign Nationals.

[60 FR 42261, Aug. 16, 1995, as amended at 68 FR 43867, July 24, 2003]

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37.114 Special acquisition requirements.

Contracts for services which require the contractor to provide advice, opinions, recommendations, ideas, reports, analyses, or other work products have the potential for influencing the authority, accountability, and responsibilities of Government officials. These contracts require special management attention to ensure that they do not result in performance of inherently governmental functions by the contractor and that Government officials properly exercise their authority. Agencies must ensure that—

(a) A sufficient number of qualified Government employees are assigned to oversee contractor activities, especially those that involve support of government policy or decision making. During performance of service contracts, the functions being performed shall not be changed or expanded to become inherently governmental.

(b) A greater scrutiny and an appropriate enhanced degree of management oversight is exercised when contracting for functions that are not inherently governmental but closely support the performance of inherently governmental functions (see 7.503(c)).

(c) All contractor personnel attending meetings, answering Government telephones, and working in other situations where their contractor status is not obvious to third parties are required to identify themselves as such to avoid creating an impression in the minds of members of the public or Congress that they are Government officials, unless, in the judgment of the agency, no harm can come from failing to identify themselves. They must also ensure that all documents or reports produced by contractors are suitably marked as contractor products or that contractor participation is appropriately disclosed.

[61 FR 2630, Jan. 26, 1996]

37.115 Uncompensated overtime.

37.115-1 Scope.

The policies in this section are based on Section 834 of Public Law 101-510 (10 U.S.C. 2331).

[62 FR 44815, Aug. 22, 1997]